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UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF CALIFORNIA

2008 MAY 27 AM 9:50

UNITED STATES OF AMERICA,

08 MJ 1627

Plaintiff,

Magistrate Case No. _____

v.

COMPLAINT FOR VIOLATION OF

Erick NAZARIO-Persino,

Title 8, U.S.C., Section 1326

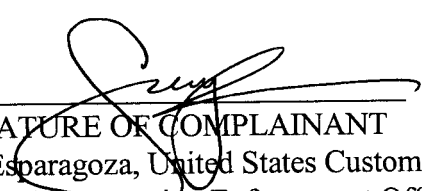
Defendant.

Attempted Entry After
Deportation

The undersigned complainant being duly sworn states:

On or about **May 23, 2008**, within the Southern District of California, defendant **Erick NAZARIO-Persino**, an alien, who previously had been excluded, deported and removed from the United States to **Mexico**, attempted to enter the United States with the purpose; i.e. conscious desire, to enter the United States at the **San Ysidro, California, Port of Entry**, without the Attorney General of the United States or his designated successor, the Secretary of the Department of Homeland Security (Title 6, United States Code, Sections 202(3) and (4), and 557), having expressly consented to the defendant's reapplication for admission into the United States; in violation of Title 8, United States Code, Section 1326.

And the complainant states that this complaint is based on the attached statement of facts, which is incorporated herein by reference.


SIGNATURE OF COMPLAINANT
Sara Esparagoza, United States Customs
and Border Protection Enforcement Officer

Sworn to before me and subscribed in my presence this **27th** day of **May, 2008**.


UNITED STATES MAGISTRATE JUDGE

PROBABLE CAUSE STATEMENT

I, United States Customs and Border Protection (CBP) Enforcement Officer Elizabeth Rangel- Machuca, declare under penalty of perjury the following to be true and correct:


On May 23, 2008 at approximately 11:30 p.m., NAZARIO-Persino, Erick (Defendant) attempted to enter the United States through the San Ysidro, California Port of Entry after having been deported and removed from the United States to Mexico. Defendant was discovered by a Customs and Border Protection (CBP) Officer as he attempted to enter the United States without inspection. The CBP Officer approached Defendant and escorted him to secondary inspection.

Defendant was queried by 10-digit fingerprints and photograph comparison through the Automated Biometric Identification System (IDENT) and Integrated Automated Identification System (IAFIS). IDENT/IAFIS returned a match to the query, identifying Defendant as a deported alien and citizen of Mexico. Defendant was also linked to FBI and Immigration Service records.

In secondary inspection, Immigration Service records checks; including Deportable Alien Control System (DACS) identified Defendant as a deported alien. DACS information indicated that on or about December 12, 2003 an Immigration Judge ordered Defendant deported and removed from the United States to Mexico through San Ysidro, California Port of Entry. Immigration Service records contain no evidence that Defendant has applied for or received permission from the Attorney General of the United States, or the Secretary of the Department of Homeland Security to legally re-enter the United States.

On May 24, 2008 at about 3:26 a.m., during a videotaped proceeding, Defendant was advised of his Miranda rights. Defendant acknowledged his rights and agreed to answer questions without benefit of counsel. Defendant admitted he is a citizen of Mexico by birth in Mexico City, Mexico. Defendant admitted he does not possess documents that would otherwise permit his legal entry into the United States. Defendant admitted he has been previously deported by an Immigration Judge from the United States and removed to Mexico through San Ysidro, California. Defendant admitted he has not applied for or received permission from the United States government to legally re-enter the United States. Defendant admitted he had the conscious desire to enter the United States to resume living Los Angeles, California.

Executed on this 24 day of May 2008 at 1000.


Elizabeth Rangel-Machuca/ CBP Enforcement Officer

On the basis of the facts presented in the Probable Cause Statement consisting of (3) page(s), I find probable cause to believe that the defendant named therein committed the offense on May 23, 2008 in violation of Title 8, United States Code, Section 1326.


MAGISTRATE JUDGE

5/24/08 12:50 p.m.
DATE / TIME